

CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

PETER S. CHRISTIANSEN, ESQ.
Nevada Bar No. 5254

pete@christiansenlaw.com

KENDELEE L. WORKS, ESQ.

Nevada Bar No. 9611

kworks@christiansenlaw.com

CHRISTIANSEN LAW OFFICES

810 S. Casino Center Blvd., Suite 104

Las Vegas, Nevada 89101

Tel: (702) 240-7979

Fax: (866) 412-6992

-and-

HOWARD L. JACOBS, Application for Admission Pro Hac Vice Pending

howard.jacobs@athleteslawyer.com

Law Offices of Howard L. Jacobs

2815 Townsgate Road, Suite 200

Westlake Village, California 91361

Tel: (805) 418-9892

Fax: (805) 418-9899

Attorneys for Defendant Brock Lesnar

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MARK HUNT, an individual,

Plaintiff,

vs.

ZUFFA, LLC d/b/a ULTIMATE FIGHTING
CHAMPIONSHIP, a Nevada limited liability
Company; BROCK LESNAR, an individual;
and DANA WHITE, an individual; and DOES
1-50, inclusive,

Defendants.

Case No. 2:17-cv-00085-JAD-CWH

**DEFENDANT BROCK LESNAR'S
REQUEST FOR JUDICIAL NOTICE
PURSUANT TO FEDERAL RULES OF
EVIDENCE RULE 201**

**[Filed concurrently with Motion to Dismiss
Pursuant to Fed. R. Civ. P. 12(b)(6)]**

In support of his Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) under Federal Rules of Evidence Rule 201 (Rule 201) Defendant Brock Lesnar respectfully requests that the Court consider and/or take judicial notice of the following documents pursuant to Rule 201.

Ex. A – UFC Anti-Doping Policy

Ex. B – June 7, 2016 *Yahoo! Sports* article explaining and confirming Brock Lesnar’s UFC ADP waiver

Ex. C – Notice of Hearing and Notice of Disciplinary Complaint to Brock Lesnar from the Nevada State Athletic Commission

Ex. D – Brock Lesnar’s Answer and Affirmative Defenses to the NSAC Complaint

Ex. E – NSAC Hearing Continuance No. 1

Ex. F – NSAC Hearing Continuance No. 2

Ex. G – NSAC Adjudication Agreement and Order

Ex. H – UFC/USADA Press Release on Sanction of Brock Lesnar

Ex. I – *MMA Fighting* article reporting Brock Lesnar’s retirement from the UFC

Ex. J – *MMA Fighting* article reporting Mark Hunt’s injuries suffered against Alistair Overeem in UFC 209

Ex. K – Plaintiff Mark Hunt’s Fight Record

Ex. L – *MMA Fighting* article reporting Mark Hunt’s pre-fight comments about Brock Lesnar.

POINTS AND AUTHORITIES

SUMMARY

Under Rule 201, facts appropriate for judicial notices are those “not subject to reasonable dispute in that they are either (1) generally known within the territorial jurisdiction of the trial court; or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” F.R.E. 201(b). The Court may take judicial notice of its own records and records of other court cases. “[A]” party requesting judicial notice bears the burden of persuading the trial judge that the adjudicative fact sought to be noticed is in fact proper for notice under FRE 201, the party must (1) persuade the court that the particular fact is not reasonably subject to dispute and is capable of immediate and accurate determination by resort to a source ‘whose accuracy cannot reasonably be questioned’...” *Id.* at 781. In other words, “the fact must be one that only an unreasonable person would insist on disputing.” United States v. Jones, 29 F. 3d 1549, 1553 (11th Cir. 1994).

CHRISTIANSEN LAW OFFICES
 810 S. Casino Center Blvd., Suite 104
 Las Vegas, Nevada 89101
 702-240-7979 • Fax 866-412-6992

For purposes of ruling on a Rule 12(b)(6) motion, the Court “accept[s] factual allegations in the complaint as true and construe[s] the pleadings in the light most favorable to the nonmoving party.” Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008). However, a court need not accept as true allegations contradicted by judicially noticeable facts, Shwarz v. United States, 234 F.3d 428, 435 (9th Cir. 2000), and a “court may look beyond the plaintiff’s complaint to matters of public record” without converting the Rule 12(b)(6) motion into one for summary judgment, Shaw v. Hahn, 56 F.3d 1061, 1064 (9th Cir. 2011).

Defendant therefore respectfully requests the Court to consider the following documents attached hereto and referenced in the Declaration of Peter S. Christiansen filed concurrently herewith in ruling on his Motion to Dismiss: (1) the UFC Anti-Doping Policy (Exhibit A); (2) a June 7, 2016 *Yahoo! Sports* article explaining and confirming Brock Lesnar’s UFC ADP waiver (Exhibit B); (3) the Notice of Hearing and Notice of Disciplinary Complaint to Brock Lesnar from the Nevada State Athletic Commission (Exhibit C); (4) Brock Lesnar’s Answer and Affirmative Defenses to the NSAC Complaint (Exhibit D); (5) the First Continuance granted by NSAC in the matter of Brock Lesnar (Exhibit E); (6) the Second Continuance granted by NSAC in the matter of Brock Lesnar (Exhibit F); (7) the NSAC Adjudication Agreement and Order (Exhibit G); (8) UFC/USADA Press Release on Sanction of Brock Lesnar (Exhibit H); (9) an article from *MMA Fighting* reporting Brock Lesnar’s retirement from the UFC (Exhibit I); (10) an article from *MMA Fighting* reporting Mark Hunt’s injuries suffered against Alistair Overeem in UFC 209 (Exhibit J); (11) Mark Hunt’s fight history as reported by the UFC (Exhibit K); and (12) an article from *MMA Fighting* reporting on Mark Hunt’s pre-fight comments about Brock Lesnar (Exhibit L).

ARGUMENT

The Court has Discretion to Consider All Exhibits Submitted by Defendant Brock Lesnar

Defendant Lesnar requests that the Court consider Exhibits A-L when ruling on his Motion to Dismiss because they consist of (i) records of another Court case directly related to Mr. Hunt’s Complaint, (ii) records publicly available and capable of accurate and ready

CHRISTIANSEN LAW OFFICES
 810 S. Casino Center Blvd., Suite 104
 Las Vegas, Nevada 89101
 702-240-7979 • Fax 866-412-6992

determination by resort to sources whose accuracy cannot be reasonably questioned and (iii) records which are directly referenced by Mr. Hunt within his Complaint.

Exhibit A is a true and correct copy UFC Anti-Doping Policy (UFC ADP). The UFC ADP, effective July 2015 and administered by the United States Anti-Doping Agency (USADA), is publicly accessible at: <http://ufc.usada.org/wp-content/uploads/UFC-anti-doping-policy-EN.pdf>. Its governing law is the cornerstone of Brock Lesnar's participation in the USADA testing pool and its entire legitimacy is questioned by Mr. Hunt's Complaint.

Exhibit B is a true and correct copy of a June 7, 2016 *Yahoo! Sports* article which explains and confirms Mr. Lesnar's waiver from the UFC ADP. It is publicly available at: <http://sports.yahoo.com/blogs/mma-cagewriter/brock-lesnar-granted-waiver-from-four-month-drug-testing-requirement-003253522.html>. The article, one of many on the subject, contains a plain explanation as to Rule 5.7.1 of the UFC ADP, which was enacted to cover situations where the strict application of the four-month notice rule would be manifestly unfair to the Athlete.

Exhibit C is a true and correct copy of the Notice of Hearing and Notice of Disciplinary Complaint to Brock Lesnar from the Nevada State Athletic Commission. While UFC athletes are subject to penalties under the UFC ADP in cases of banned substance violations, they remain subject to the penalties of the Nevada State Athletic Commission. Mr. Hunt directly references Mr. Lesnar's adjudication under the NSAC within his Complaint. See Comp. ¶¶ 85-87.

Exhibit D is a true and correct copy of Brock Lesnar's Answer and Affirmative Defenses to the NSAC Complaint. While UFC athletes are subject to penalties under the UFC ADP in cases of banned substance violations, they remain subject to the penalties of the Nevada State Athletic Commission. Mr. Hunt directly references Mr. Lesnar's adjudication under the NSAC within his Complaint. See Comp. ¶¶ 85-87.

Exhibit E is a true and correct copy of Brock Lesnar's Motion for Continuance dated September 19, 2016. Mr. Hunt directly references Mr. Lesnar's adjudication under the NSAC within his Complaint. See Comp. ¶¶ 85-87.

Exhibit F is a true and correct copy of Brock Lesnar's Motion for Continuance dated October 25, 2016. Mr. Hunt directly references Mr. Lesnar's adjudication under the NSAC within his Complaint. See Comp. ¶¶ 85-87.

Exhibit G is a true and correct copy of the fully executed NSAC Adjudication Agreement and Order. Mr. Hunt directly references Mr. Lesnar's adjudication under the NSAC within his Complaint. See Comp. ¶¶ 85-87.

Exhibit H is a true and correct copy of the press release published by the UFC and USADA on January 4, 2017 following its sanction of Brock Lesnar. The press release is available at: <http://ufc.usada.org/brock-lesnar-receives-doping-sanction/>.

Exhibit I is a true and correct copy of an *MMA Fighting* article dated February 14, 2017 which reported that Brock Lesnar notified the UFC of his retirement from MMA. The article is publicly available at: <http://www.mmafighting.com/2017/2/14/14613038/brock-lesnar-notifies-ufc-of-his-retirement-from-mma>. It is illustrative as to the scope of Mr. Lesnar's relationship with the UFC and confirms that Mr. Lesnar is prevented from competing in an MMA event ever again until he serves the duration of his suspension.

Exhibit J is a true and correct copy of an *MMA Fighting* article dated March 4, 2017 which reported that Plaintiff Hunt fought Alistair Overeem in the opening fight of UFC 209's main card event. The article is public available at: <http://www.mmafighting.com/2017/3/5/14819284/mark-hunt-says-he-suffered-broken-tibia-at-ufc-209>. It is illustrative as to the facts that (i) at the time of the fight, it had been nearly five years since Mr. Overeem's positive test; (ii) Mr. Hunt had knowledge of Mr. Overeem's positive test; and (iii) Mr. Hunt agreed to fight Mr. Overeem anyway, a mere two months after filing his complaint.

Exhibit K is a true and correct copy of Mark Hunt's fight history as reported by the UFC. It is publicly available at <http://www.ufc.com/fighter/mark-hunt>.

Exhibit L is a true and correct copy of an *MMA Fighting* article dated June 9, 2016 which reported that Mr. Hunt said in reference to Defendant Lesnar, "I think he's juiced to the gills." The article is publicly available at

1 [http://www.mmafighting.com/2016/6/9/11894188/mark-hunt-on-brock-lesnar-i-think-hes-](http://www.mmafighting.com/2016/6/9/11894188/mark-hunt-on-brock-lesnar-i-think-hes-juiced-to-the-gills-ufc-200)
2 [juiced-to-the-gills-ufc-200](http://www.mmafighting.com/2016/6/9/11894188/mark-hunt-on-brock-lesnar-i-think-hes-juiced-to-the-gills-ufc-200). It is illustrative of the fact that Plaintiff Hunt already believed to be
3 Mr. Lesnar a “doper,” yet insisted he would fight Mr. Lesnar regardless, and moreover, that he
4 would “knock [Mr. Lesnar] out.”

5 **CONCLUSION**

6 For the foregoing reasons, Defendant respectfully requests that the Court consider
7 and/or take judicial notice of the subject documents when ruling on Defendant’s Motion to
8 Dismiss the Complaint.

9 RESPECTFULLY SUBMITTED this 23rd day of March, 2017.

10 CHRISTIANSEN LAW OFFICES

11
12 By 

13 PETER S. CHRISTIANSEN, ESQ.
14 KENDELEE L. WORKS, ESQ.

15 -and-

16 HOWARD L JACOBS, ESQ.
17 THE LAW OFFICES
18 OF HOWARD L. JACOBS
19 *Attorneys for Defendant Brock Lesnar*
20
21
22
23
24
25
26
27
28

CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

CHRISTIANSEN LAW OFFICES
810 S. Casino Center Blvd., Suite 104
Las Vegas, Nevada 89101
702-240-7979 • Fax 866-412-6992

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5 and the Court's Local Rules, the undersigned hereby certifies that on this day, March 23, 2017, a copy of the foregoing document entitled ***DEFENDANT BROCK LESNAR'S REQUEST FOR JUDICIAL NOTICE PURSUANT TO FEDERAL RULES OF EVIDENCE RULE 201*** was filed and served through the Court's electronic filing system (CM/ECF) upon all registered parties and their counsel.



An employee of Christiansen Law Offices